

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No.D-313 of 2023.

[Haibatullah Soomro and others vs. Province of Sindh and others]

Constitutional Petition No.D-381 of 2023.

[Muhammad Nawaz and others vs. Province of Sindh and others]

Constitutional Petition No.D-416 of 2023.

[Imdad Ali and others vs. Province of Sindh and others]

Constitutional Petition No.D-438 of 2023.

[Abdul Qadir and others vs. Province of Sindh and others]

Before:-

*Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'.*

Mr. Abdul Naeem Pirzada, Advocate for the Petitioners in all Constitutional petitions.

Mr. Ali Raza Balouch, Additional Advocate General Sindh along with Ayaz Hussain Mahesar, District Education Officer (Primary), Khairpur Mirs, Kashif Hussain Memon, District Education Officer (ES&HS) Sukkur, Muhammad Zakria Dhandu, District Education Officer (Primary), Ghotki, at Mirpur Mathelo and Dilyawar Soomro, Assistant Education Officer/ Focal person (courts) Litigation Officer on behalf of District Education Officer (Primary) Ghotki at Mirpur Mathelo.

Date of hearing : 23.04.2026
Date of short order : 23.04.2026
Date of reasoning : 12.05.2026

ORDER

Ali Haider 'Ada' J.- By way of this single order, all the above-mentioned petitions, pertaining to the same issue, are being decided together.

2. Through these petitions, the main grievance of the petitioners is to seek directions to the respondents to reopen the

viable schools and thereafter appoint the petitioners to their respective posts by issuing offer letters for recruitment to the qualified positions, in accordance with the applicable policy. The petitioners have placed reliance upon the Teacher Recruitment Policy, 2012, as well as the lists in which their names appeared during the recruitment process.

3. Learned counsel for the petitioners submitted that the petitioners had applied for the posts of Primary School Teacher and Junior School Teacher from their respective Union Councils. They successfully qualified the requisite tests and secured passing marks; however, subsequently, due to the closure of the schools, they were not considered for appointment. Such non-consideration, it is contended, is without lawful authority. The learned counsel also placed certain documents on record under the cover of a statement, which are taken on record.

4. On the other hand, the learned Additional Advocate General, appearing on behalf of the respondents, filed a detailed statement and submitted that in the respective Union Councils of the petitioners, the candidates who were recommended had secured higher marks than the petitioners. The merit and scores of the petitioners were comparatively lower than those of the successful candidates. With regard to the issue of viable schools, the learned Additional Advocate General placed reliance upon the compliance report submitted by the respondents, along with clarification regarding the reopening of such schools. Further reliance was placed upon the comments of the Secretary, School Education and Literacy Department, filed on 18.11.2024, wherein a detailed order was annexed. The essence of the said order pertained to the reopening of viable closed schools through rationalization of teaching staff and replacement of teachers, supported by a relevant chart.

5. Heard. Record perused.

6. A detailed position was submitted by the respondents, wherein the names of the petitioners were examined with reference to their respective Union Councils, the availability of posts therein, and their obtained marks and merit positions. The record further reflects a comparison between the marks and merit of the petitioners and those of the last selected candidates. It is evident that the candidates who were declared successful and recommended for appointment had secured significantly higher marks than the petitioners and were duly adjusted in accordance with their respective Union Councils. In these circumstances, the grievance of the petitioners appears to be misconceived and unjustified, as the successful candidates, being higher in merit under the prescribed criteria, were rightfully recommended for appointment.

7. At this stage, when the matter pertains to the recruitment process of the year 2012, any interference or disturbance in the concluded process is unwarranted, particularly when the petitioners admittedly secured lower marks in the merit list. Therefore, in view of the foregoing facts and circumstances, the petitioners are not entitled to the relief as prayed for, either with regard to their recruitment or the reopening of viable schools. It is further noted that the matter relating to the reopening of such schools has already been addressed by the Education Department in accordance with the prescribed policy and requirements.

8. It is a settled principle of law that the Superior Courts ordinarily refrain from interfering in policy matters, as the scope of judicial review in such cases is limited. Interference is warranted only where it is manifest that the policy decision suffers from arbitrariness, is tainted with mala fide, is patently illegal, or is manifestly unreasonable. That the formulation of

policy falls within the exclusive domain of the executive and does not ordinarily lie within the jurisdiction of the Courts. In this regard, reliance may be placed upon *Peshawar Electric Supply Company Ltd. (PESCO) and another v. SS Polypropylene (Pvt.) Ltd., Peshawar and others* (PLD 2023 SC 316), *Messrs Sadiq Poultry (Pvt.) Ltd. v. Government of Khyber Pakhtunkhwa through Chief Secretary and others* (PLD 2023 SC 236), and *Sikandar Ali and others v. Province of Sindh through Secretary Education and Literacy Department, Sindh Secretariat, Karachi and others* (2023 PLC (C.S.) 566), wherein it has been consistently reiterated that policy-making is the function of the executive and not of the judiciary. Further guidance may also be drawn from the judgment of the Hon'ble Supreme Court in *Abdul Hameed and others v. Water and Power Development Authority through Chairman, Lahore and others* (2021 SCMR 1230), wherein it was held that the Courts should not interfere in policy decisions of the executive unless such decisions are shown to be arbitrary, mala fide, contrary to law, or wholly unreasonable.

9. As all the above petitions were dismissed vide order dated 23.04.2026, the foregoing constitutes the detailed reasons for the short order of even date.

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